

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICE POINDEXTER,

Plaintiff,

v.

J. LYNCH, et al.,

Defendants.

No. 2:21-cv-0760 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, seeks relief under 42 U.S.C. § 1983. The case was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Before the court is plaintiff's motion for a preliminary injunction and temporary restraining order. ECF No. 12. For the reasons stated below, the undersigned will recommend that the motion be denied.

I. PLAINTIFF'S MOTION

Plaintiff's motion for injunctive relief was written while he was housed at California Health Care Facility. See ECF No. 12 at 1-2. The motion states that plaintiff was badly beaten by defendants while he was an inmate at California State Prison – Sacramento, and that he fears that he will be killed, harmed or set up to be once he is returned there. Id. at 2. He seeks a court order preventing that transfer. Id. Plaintiff requests transfer to Salinas Valley State Prison. Id.

1 II. DISCUSSION

2 To obtain preliminary injunctive relief, a party must demonstrate that: (1) he is likely to
3 succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of an injunction;
4 (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. Winter
5 v. Natural Resources Defense Council, 555 U.S. 7, 20 (2008). The propriety of a request for
6 injunctive relief hinges on a significant threat of irreparable injury that must be imminent in
7 nature. Caribbean Marine Serv. Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988).

8 Plaintiff's motion must be denied. First, plaintiff fails to provide support for his claim
9 that he is in any sort of danger or harm that is imminent. He reports no specific statements made
10 or actions taken by defendants that indicate he will be subjected to violence if returned to CSP –
11 Sacramento. Plaintiff simply believes that he will be harmed. ECF No. 12. Injunctive relief
12 cannot be granted based on speculative harm. See Caribbean Marine Serv. Co., 844 F.2d at 674.

13 To the extent that plaintiff seeks transfer to Salinas Valley State Prison, this court has no
14 authority to determine where plaintiff should be housed, and it is well-settled that a prisoner has
15 no constitutional right to be housed in a particular prison. See Rizzo v. Dawson, 778 F.2d 527,
16 530 (9th Cir. 1985); see also Meachum v. Fano, 427 U.S. 215, 224 (1976).

17 Finally, plaintiff recently filed a notice of change of address which indicates that he is
18 now housed at Kern Valley State Prison. ECF No. 13. Any alleged harm at the hands of
19 defendants who are located at California State Prison – Sacramento is not possible, and eliminates
20 any legal interest plaintiff may have had in a decision on the merits of his motion. See Jones v.
21 Williams, 791 F.3d 1023, 1031 (9th Cir. 2015) (prisoner's removal from problematic
22 environment eliminates legally cognizable interest in decision on merits). Even if plaintiff had
23 proffered facts showing a danger to him at CSP – Sacramento, that danger is not currently
24 imminent and therefore cannot support any court order. In other words, the motion for an order
25 preventing transfer to CSP – Sacramento is now moot.

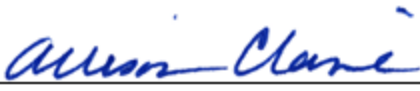
26 For all these reasons, the instant motion for injunctive relief must be denied.

27 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a
28 United States District Judge to this action.

1 IT IS FURTHER RECOMMENDED that plaintiff's motion for a preliminary injunction
2 and temporary restraining order (ECF No. 12) be DENIED.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, plaintiff may file written objections
6 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
7 and Recommendations." Plaintiff is advised that failure to file objections within the specified
8 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
9 (9th Cir. 1991).

10 DATED: June 15, 2022

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12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE
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